

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

ALBERT BROOKE,

Plaintiff

v.

REVERN COMICK.,

Defendant

:
:
:
:
:
:
:
:
:
:
:

CIVIL NO. 4:CV-07-2302

(Judge McClure)

MEMORANDUM

January 7, 2008

Background

Albert Brooke (“Plaintiff”), an inmate presently confined in the State Correctional Institution, Coal Township, Pennsylvania (“SCI-Coal Twp.”), initiated this *pro se* civil rights action. Named as Defendant is “Revern Comick” who is described as being an “Advisor Revern [sic]” at SCI-Coal Twp. Record document no. 1, ¶ III(A). The complaint is accompanied by a request for leave to proceed *in forma pauperis*. For the reasons set forth below, Brooke’s complaint will be dismissed, without prejudice pursuant to the screening provisions of 28 U.S.C. § 1915(g).

Brooke alleges that the “Revern [sic] refused to baptize me solely because I’m in wheelchair and can’t climb into the spa.” *Id.* at ¶ IV(1). The Complaint additionally indicates that the Defendant convinced other clergy at the prison that they

should not baptize the Plaintiff because of his race. Plaintiff concludes that as a result of the Defendant's alleged conduct he has lost his belief in the church. As relief, Brooke seeks monetary damages and the revocation of the Defendant's "Priest License." *Id.* at ¶ V(3).

Discussion

Under § 1915(g), a federal civil action by a prisoner proceeding in forma pauperis is barred if he or she:

has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Brooke, while incarcerated, previously initiated the following civil actions which were dismissed by this Court under 28 U.S.C. § 1915 as being frivolous:

Brooke v. Luzerne County Prison, et. al., Civil No. 4:94-CV-1024 (M.D. Pa. July 26, 1994)(complaint *sua sponte* dismissed as frivolous); Brooke v. Bott, Civil No. 4:94-CV-453 (M.D. Pa. April 25, 1994)(*sua sponte* dismissal on grounds that complaint is frivolous); Brooke v. Carbon County Children & Youth, et al., Civil No. 4:94-CV-1203 (M.D. Pa. Aug. 15, 1994)(complaint *sua sponte* dismissed as frivolous); Brooke v. Urbanski, Civil No. 4:94-1205, (M.D. Pa. Aug. 15, 1994)(*sua sponte* dismissal on the basis of frivolousness).

The gist of Plaintiff's present complaint is his contention that the Defendant's purported actions interfered with his ability to exercise his religious

beliefs. The alleged unconstitutional conduct does not place this inmate in danger of imminent "serious physical injury" at the time his complaint was filed on December 21, 2007. See Abdul-Akbar v. McKelvie, 239 F.3d 307, 312 (3d Cir. 2001), cert. denied, 533 U.S. 953 (2001). Pursuant to the standards announced in §1915(g), Brooke's present civil rights action is barred under § 1915(g). An appropriate Order will enter.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

ALBERT BROOKE,

Plaintiff

v.

REVERN COMICK,

Defendant

:
:
:
:
:
:
:
:
:
:
:
:

CIVIL NO. 4:CV-07-2302

(Judge McClure)

ORDER

January 7, 2008

In accordance with the accompanying Memorandum,

IT IS HEREBY ORDERED THAT:

1. The Plaintiff's complaint is dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).
2. The Clerk of Court is directed to close the case.
3. Any appeal from this Order will be deemed frivolous, without probable cause and not taken in good faith.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge